



Ohio Legislative Service Commission

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Fiscal Note & Local Impact Statement

Bill: [H.B. 371 of the 128th G.A.](#)

Date: April 5, 2010

Status: As Introduced

Sponsor: Reps. Pillich and Belcher

Local Impact Statement Procedure Required: No — Minimal cost

Contents: Replaces references to an abused, neglected, and dependent child in the state's child protection laws with the new category, "child in need of protective services"

State Fiscal Highlights

- The Department of Rehabilitation and Correction may experience an increase in incarceration costs as a result of a potential increase in felony endangering children convictions. These costs may be completely or partially offset by financial sanctions imposed on the offender.
- The Department of Job and Family Services may experience minimal costs to train staff and make terminology changes to the Uniform Statewide Automated Child Welfare Information System.

Local Fiscal Highlights

- The public children services agencies (PCSAs) may experience a minimal increase in costs to train staff, provide written notification of rights and services, and to investigate reports that a child may be lacking legally required education.
- Schools may experience a minimal increase in costs to investigate additional reports from PCSAs that a child may be lacking legally required education.
- The county juvenile courts may experience a minimal increase in costs to train staff and to respond to PCSAs seeking court orders to ensure compliance with the compulsory school attendance law. Some courts may experience an increase in costs if paid private attorneys are used for additional cases in which a guardian ad litem is required.
- The county courts of common pleas may experience an increase in revenue from fines imposed as a result of a potential increase in felony endangering children convictions.

Detailed Fiscal Analysis

This analysis focuses on those substantial changes in the bill that have, or would seem to have, a fiscal impact on state or local government. For a complete discussion of *all* the changes made by the bill please refer to the LSC bill analysis.

Terminology change

The bill replaces references to an abused, neglected, and dependent child in the state's child protection laws with the new category, "child in need of protective services." In the bill, a child in need of protective services means a child to whom one or more of the following occurred due to one or more acts or omissions of the child's parent, legal guardian, or legal custodian: physical, sexual, or emotional harm; exposure to substance misuse; or lack of necessary health care, legally required education, necessary care, or supervision. Various state and local government entities, such as the Ohio Department of Job and Family Services, public children services agencies (PCSAs), and the courts, may experience a minimal increase in costs to train staff on the new terminology and the impact such a change will or will not have on the child welfare system.

Public children services agencies

Investigation and notification

Current law requires a PCSA to investigate each report of child abuse or neglect within 24 hours of receipt of the report, and when necessary, work with the family to identify services and develop a case plan to reduce the risk for future abuse or neglect. The bill specifies that a PCSA may investigate a report of evidence that a child is in need of protective services only if there is reason to believe that the reported injury, harm, or risk of injury or harm to a child resulted from an act or omission by the child's parent, legal guardian, or legal custodian.¹ This provision creates an expressed link between parental conduct and the alleged harm or risk to the child. The bill is not intended, and is unlikely, to affect the number of investigations PCSAs undertake.² PCSAs will continue to assess reports, conduct investigations, and work with families as they do in current practice.

Additionally, the bill requires PCSAs to provide written notice of the rights of, and services available to, a parent, legal guardian, or legal custodian of the child who is the subject of a report indicating that the child may be a child in need of protective

¹ The bill does not preclude the PCSA from acting under the scope of its authority to conduct an investigation or provide services for a child who has been injured or who is at substantial risk of harm due to an act or omission by a person *other than* the child's parent, legal guardian, or legal custodian (e.g., an out-of-home care provider).

² For a detailed discussion of the intent provisions in the bill, see the LSC bill analysis.

services or the possible threat of an act or omission that would cause a child to be a child in need of protective services. Most, if not all, PCSAs provide parents working with children services with information on what to expect. The Supreme Court of Ohio, Advisory Committee on Children, Families, and the Court, produced a brochure that some counties use, while other counties have developed their own resources for parents. Additional costs will depend on whether the Supreme Court modifies the current document or develops a new one that PCSAs may use to meet the requirements of the bill. PCSAs will incur development and publication costs if they must produce their own materials to meet the requirement of providing written notification of rights and services.

Legally required education

The bill requires PCSAs to contact the appropriate school attendance officer or assistant if facts are discovered that could support adjudication that a child is lacking legally required education. Likewise, the bill authorizes a school attendance officer or assistant to provide written notice to an appropriate PCSA when that person believes that the PCSA's intervention may help a child obtain legally required education. If the notice lacks specific documentation of efforts to assure school attendance, the bill provides that a PCSA is under no obligation to assess or investigate the report provided the only reason for the report is that the child is lacking legally required education. If steps have not been taken to ensure compliance with the compulsory school attendance law, the bill allows the PCSA to seek an order from the appropriate juvenile court to ensure that such efforts be made.

These provisions may lead to an increase in the number of notifications between PCSAs and schools of children lacking legally required education, which may increase the costs for both to conduct greater numbers of investigations. Additionally, court costs could arise if PCSAs seek court orders to ensure compliance with compulsory school attendance laws.

Juvenile courts

Adjudications

Under current law, a juvenile court may adjudicate a child as being abused, neglected, or dependent based on the specific circumstances of a case. Under the bill, any reference to those terms alone, or in combination, is replaced with the term "child in need of protective services," a single category of adjudication. This single category of adjudication broadens the scope of the statute, potentially requiring action by the court when none would have been required under current law. Court costs and other child welfare costs, such as foster care, could increase if there are a greater number of adjudications. However, the Juvenile Law and Procedure Committee of the Ohio Judicial Conference does not expect the bill to result in a significant increase in the number of adjudications; therefore, the fiscal impact of these changes is likely to be minimal.

Appointing a guardian ad litem

Under current law, a juvenile court must appoint a guardian ad litem (GAL) in any case involving an alleged or adjudicated abused or neglected child and in certain cases involving an alleged dependent child. A GAL assists the court in determining the best interests of a child and is either a paid private attorney or a volunteer.

The bill requires the appointment of a GAL for every case that involves an alleged or adjudicated child in need of protective services. This provision may potentially increase the number of cases that require the appointment of a GAL, since *all* cases (including all dependency cases as defined under current law) would be included under the bill. The fiscal impact of this provision on each court will depend on whether the court uses paid private attorneys or volunteers for any additional cases in which a GAL is required.

Grant of custody to a PCSA or private child placing agency

Under current law, a juvenile court may grant permanent custody of a child to a PCSA or private child placing agency (PCPA) that has temporary custody of the child if the court determines that the child is abused, neglected, or dependent and finds that at least one of several specific situations exists. One of those findings is that the parent committed any abuse against the child or caused or allowed the child to suffer any neglect between the date of the original complaint and the date of the filing of the motion for permanent custody. The bill changes this possible finding to be that the parent committed an act or omission that indicates that the child is in need of protective services and that either (1) the act or omission occurred between the dates described above or (2) the act or omission was of such a seriousness, nature, or likelihood of recurrence that the court determines that the child's placement with the parent is a threat to the child's safety. This change broadens the law, thereby granting the court the authority to grant permanent custody for reasons that do not necessarily fall under the current statute. An increase in grants of permanent custody will increase PCSAs costs for foster care as well as costs to find an adoptive family for the child. However, the statute continues to grant the court the authority to exercise discretion when granting permanent custody of a child to a PCSA or PCPA and current practice is likely to continue.

Taking a child into custody

Under current law, a child may be taken into custody by a law enforcement officer or duly authorized officer of the court if reasonable grounds exist to believe that the child is either suffering from illness or injury and not receiving proper care or is in immediate danger from the child's surrounding and that the child's removal is necessary to prevent immediate or threatened physical or emotional harm. A child may also be taken into custody if reasonable grounds exist indicating that any member of the child's household has abused or neglected another child in the household and that the

child is in danger of immediate or threatened physical or emotional harm from that person.

In keeping with the changes in terminology, the bill provides that a child may be taken into custody when there are reasonable grounds to believe that the child's parent, guardian, or custodian committed an act or omission that indicates that the child is a child in need of protective services or any member of the child's household has caused another child in the household to become a child in need of protective services and to believe that the child is in danger of immediate or threatened physical or emotional harm from that person. The changes in terminology broaden these provisions of law, thereby granting authority to remove a child for reasons that do not necessarily fall under the current statute such as, lacking legally required education or supervision. If there is an increase in the number of children taken into custody, PCSAs, local law enforcement, and juvenile courts would likely experience an increase in caseloads and corresponding costs. However, the statute continues to grant law enforcement and officers of the court the authority to exercise discretion when taking a child into custody and current practice is likely to continue.

Endangering children

Under current law, the offense of endangering children is a misdemeanor of the first degree or a felony of the fourth degree if the offender was previously convicted of endangering children or any offense involving neglect, abandonment, contributing to the delinquency of, or physical abuse of a child unless a higher penalty would apply. Under the bill, the offense of endangering children is a felony of the fourth degree if the offender was previously convicted of an offense that involved permitting or causing a child to become a child in need of protective services unless a higher penalty would apply. The change in terminology would expand the type of prior conviction that increases the degree of the offense to include offenses such as lacking necessary health care, being harmed by exposure to substance misuse, lacking legally required education, and lacking necessary care or supervision. Expanding the scope of offenses may increase the number of felony convictions for endangering children thus increasing the possibility of incarceration. In Ohio, a felony of the fourth degree is punishable by between six and 18 months in prison and a fine of up to \$5,000.

In FY 2009, there were 121 commitments to the Department of Rehabilitation and Correction (DRC) for endangering children. In 2007, the average amount of time served per commitment was about 332 days. According to DRC, the average cost per inmate, per day, is \$69.27 making the average cost of incarceration for endangering children about \$23,000. However, in all likelihood, DRC would be able to accommodate any additional inmates incarcerated as a result of this provision using existing resources; additional costs would be marginal, for items such as clothing and food for the inmate. Marginal costs are estimated to be about \$4,000 per inmate, per year. Section 2929.18(A)(5)(a) of the Revised Code allows courts to impose financial sanctions on offenders requiring them to pay for all or part of their incarceration, so it is possible that

any additional costs incurred as a result of this provision would be completely offset. Additionally, as a result of this provision, the state or political subdivision in which the offender was sentenced could experience an increase in revenue from fines imposed as a result of a potential increase in felony endangering children convictions.

Uniform Statewide Automated Child Welfare Information System

The bill requires the Department of Job and Family Services to make necessary changes to the Uniform Statewide Automated Child Welfare Information System to accommodate any changes in terminology made by the bill within one year of the bill's effective date. The Department of Job and Family Services will likely experience a one-time increase in costs to make the necessary changes of terminology in the system. Those costs are expected to be minimal.

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